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U.S.-Japan Critical Minerals Agreement

On March 28, 2023, the United States and Japan signed a critical minerals agreement (CMA) covering five key minerals related to the production of batteries for clean vehicles (commonly referred to as electric vehicles or "EVs"). The U.S.-Japan CMA entered into force immediately upon signature.

The CMA seeks to address Japan's concerns regarding certain content requirements for the consumer tax credit for new EVs included in P.L. 117-169, known as the Inflation Reduction Act (IRA). The IRA requires a certain percentage of critical minerals in EV batteries to be sourced from the United States or U.S. free trade agreement (FTA) partners. Congress has approved all previous U.S. FTAs via legislation and typically set FTA procedures and requirements in Trade Promotion Authority (TPA), which expired in 2021. The United States and Japan do not have a congressionally approved FTA, but the U.S. Department of the Treasury has designated the CMA as an FTA for the purposes of the IRA EV tax credit.

The U.S.-Japan CMA ties into a broader discussion about congressional and executive trade authorities. Other issues for Congress include implications for U.S.-Japan trade relations, ongoing and future CMA negotiations, and the implementation of the EV tax credit.

IRA EV Tax Credit

The IRA provides consumers a tax credit of up to $7,500 for new EVs (26 U.S.C. §30D). To qualify for the tax credit, EVs must meet overall requirements, including final assembly in North America and retail price caps. U.S. policymakers crafted IRA EV tax credit requirements that, in part, reflect concerns over U.S. dependence on the People's Republic of China (PRC, or China). China dominates the EV supply chain, including mining and processing of critical minerals and production of EVs and EV batteries. EVs can qualify for partial credit if they meet content requirements related to the components or critical minerals in the EV battery. Specifically, as of January 2025, the $3,750 critical minerals-related portion of the credit requires **60%** by value of an EV battery's critical minerals to be sourced from the United States or a U.S. FTA partner. The requirement will increase annually until reaching **80%** in January 2027.

In addition, starting in January 2024 and January 2025, respectively, EVs cannot qualify for the credit if they contain battery components or critical minerals from "**foreign entities of concern**" (FEOC), which includes countries such as Russia and China. Treasury and the U.S. Energy Department have defined FEOC to include all entities headquartered in or organized under the laws of an FEOC country. The guidance indicates that FEOC-tied operations in the United States and FTA partner countries as well as arrangements such as licensing agreements could be either IRA compliant or noncompliant, depending on the specific corporate situation. The guidance includes a transition rule that provides flexibility until 2027 for certain low-value critical minerals, including graphite, that may be difficult to trace through the supply chain under current industry standards. China is the top global producer of graphite. Since December 2023, the PRC government must approve graphite exports.

FTA Partner Provision and CMA Negotiations

There is no statutory definition for an FTA, but under World Trade Organization (WTO) rules, a regional trade agreement such as an FTA must cover "substantially all trade" between trading partners. The United States currently has 14 such "comprehensive" FTAs—authorized and approved by Congress—with 20 countries. During the Trump Administration, the United States and Japan signed the 2020 U.S.-Japan Trade Agreement (USJTA), which is not a comprehensive FTA. It reduces tariffs on some goods, but not those in the automotive or critical minerals sectors.

Automotive industry groups and some U.S. trading partners have expressed a desire for allowing more trading partners to qualify for the FTA partner provision. They argue that it will be difficult to source adequate supplies of critical minerals from the United States and its comprehensive FTA partners within the outlined timeframe. The Biden Administration proposed new trade agreements focusing on critical minerals in EV batteries as a method of addressing such concerns. The U.S.-Japan CMA was the first such agreement to be concluded. Currently, the United States is negotiating CMAs with the European Union (EU) and the United Kingdom (UK). In November 2023, the United States and Indonesia agreed to develop a "critical minerals action plan" with a view toward future CMA talks.

U.S.-Japan CMA Overview

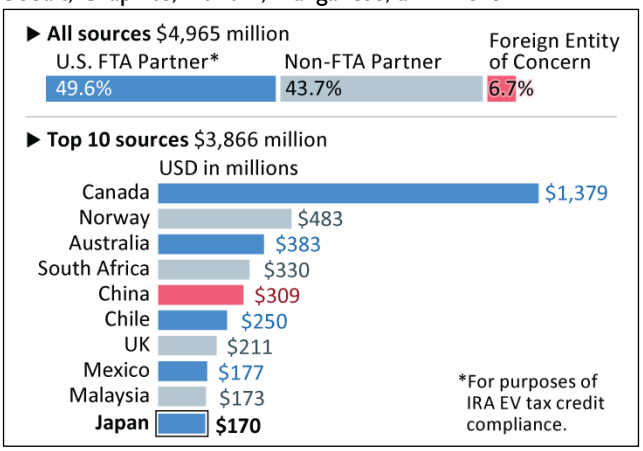
As of 2023, Japan is the sixth-largest U.S. trading partner (goods and services). The automotive sector plays a major role in the U.S.-Japan economic relationship. In 2023, the United States imported $54.5 billion in vehicles and parts from Japan and exported $2.5 billion to Japan. Since 1982, Japanese automakers have invested $61.6 billion in U.S. manufacturing facilities, and have announced various investments in EV and EV battery production following the passage of the IRA and the 2020 United States-Mexico-Canada Agreement (USMCA), which has North American content requirements for duty-free automotive trade.

The U.S.-Japan CMA changes neither U.S. law nor existing tariffs, and does not include other market access provisions. The United States and Japan stated that the CMA's

objective is to "strengthen and diversify critical minerals supply chains" and promote the adoption of EV battery technologies. The critical minerals covered by the CMA are **cobalt**, **graphite**, **lithium**, **manganese**, and **nickel**—all key EV battery inputs. Among other measures, the United States and Japan agreed to (1) maintain the "current practice" of not imposing export duties on critical minerals trade between their countries; (2) confer on measures to address non-market policies and practices affecting critical minerals supply chains; (3) confer on best practices for review of foreign investments in their countries' critical minerals sectors; (4) coordinate on actions related to forced labor and other labor rights connected to critical minerals supply chains; and (5) promote employer neutrality related to unions. The two countries agreed to review the CMA periodically to determine whether to terminate or amend the CMA, including which critical minerals are covered.

Japan is not a large source of mined critical minerals but possesses related capabilities, including mineral processing and EV battery production (e.g., Panasonic). In 2023, Japan was the tenth-largest source of U.S. imports of the five covered critical minerals (see **Figure 1**), particularly processed cobalt.

Figure 1. U.S. Critical Minerals Import Sources (2023)
Cobalt, Graphite, Lithium, Manganese, and Nickel



Sources: CRS with data from U.S. Census Bureau as presented by Trade Data Monitor, accessed December 2024. Tariff codes from U.S. Geological Survey.

Stakeholder Reactions to the CMA

Japanese automakers praised the CMA as recognition of Japan's status as a key U.S. ally and trading partner. The International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW)—a major U.S. union representing workers at Ford, General Motors, and Stellantis—expressed skepticism about the CMA, noting that U.S. imports of Japanese critical minerals are relatively small, and the inclusion of Japan as an FTA partner could give "incredibly competitive" Japanese automakers a pathway to receive U.S. subsidies. Some Members of Congress raised concerns about the CMA's lack of binding or enforceable commitments, particularly related to labor and the environment. Some Members also criticized Treasury's designation of the CMA as an FTA for the purposes of the EV tax credit, describing this action as overriding congressional trade authorities and undermining Congress's intent to build up domestic EV supply chains.

Issues for Congress

U.S.-Japan FTA and congressional trade authority. Some Members and industry groups continue to push for a comprehensive U.S. FTA with Japan (e.g., further USJTA negotiations or joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership [CPTPP]). Members may consider whether targeted agreements like the CMA are appropriate substitutes. A related issue is Congress's role in trade agreements. During the 118th Congress, some Members proposed legislation defining FTA for the purposes of the tax credit as a congressionally-approved agreement covering "substantially all the trade" between the United States and one or more countries (e.g., H.R. 7983). Other Members proposed legislation to authorize the negotiation of and outline approval processes for limited FTAs focusing on critical minerals (S. 5451). See CRS Report R47679, *Congressional and Executive Authority Over Foreign Trade Agreements*.

Future CMAs and other critical minerals initiatives. It is unclear whether the U.S.-Japan CMA will be a template for other CMAs. Some critical mineral-rich nations without a comprehensive U.S. FTA (e.g., Argentina, Norway, the Philippines) have expressed interest in qualifying as FTA partners through CMAs or existing trade initiatives. The United States is also engaged in plurilateral initiatives such as the Minerals Security Partnership, which convenes governments and private companies to discuss critical minerals projects. Some Members of Congress have expressed interest in pursuing additional CMAs and/or strengthening critical minerals supply chains with key partners (e.g., S. 3631, 118th Congress). At the same time, some Members also have concerns about concluding CMAs with countries, like Indonesia, due to weak labor and environmental standards, PRC investment ties, and restrictive trade practices. Other issues include the durability of CMAs and how CMAs and other critical minerals frameworks relate to existing U.S. trade initiatives.

IRA EV tax credit implementation. Some Members argued that the Biden Administration's implementation of the credit (e.g., temporary flexibility for certain minerals and interpreting FEOC to possibly allow for materials from PRC-tied firms) undermines congressional intent and may allow U.S. taxpayer funds to flow to PRC firms. Others supported the Administration's efforts to balance between derisking supply chains and promoting EV adoption. During the 118th Congress, some Members proposed legislation to change or further clarify IRA EV tax credit requirements (e.g., S. 3869, S. 756/H.R. 2951, H.R. 3938, H.R. 7980). Some Members also proposed eliminating the EV tax credit (e.g., S. 4237). Congress may also consider oversight of the EV tax credit's implementation—for example, during the 118th Congress, some Members pursued a Congressional Review Act resolution (e.g., S.J.Res. 87/H.J.Res. 148).

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